

RESOLUTION NO. _____, SERIES 2009

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RELEASE AND DISCLAIMER OF INTEREST FOR AND ON BEHALF OF METRO GOVERNMENT IN AND TO A BEQUEST OF REAL PROPERTY LOCATED AT 404 MOCKINGBIRD VALLEY ROAD; AND DECLARING AN EMERGENCY.

SPONSORED BY:

WHEREAS, the Last Will and Testament of Anne Stuart Duncan who died November 20, 2006 provided that all real property owned by her at the time of her death was to be bequeathed to the Parks department of Louisville Metro Government to be used as follows:

"A public park; A retreat; the Metro Mayor's residence; or A visitor center for the Castles of the Ohio River. In the event that the Parks Department cannot or will not be able to dedicate my real estate to that purpose, then I ask that the property be sold as a single family residence and that the net proceeds of the sale be used to establish a charitable trust fund with distributions (other than administrative ones) limited to the following: For the benefit of wildlife preservation and animal protection; For the benefit of firemen; and For religious contributions. All donations and distributions of this charitable trust shall be determined in accordance with the contributions that I have made during the final years of my life."

WHEREAS, the real property owned by the decedent at the time of her death consists of a tract of land located at 404 Mockingbird Valley Road in Louisville Kentucky as more particularly described on Exhibit A to this resolution which property was, under the terms of the will bequeathed to the Parks Department of Metro Louisville; and

WHEREAS, after full study and consideration of the financial impact of the bequest, as well as the negative impact of the bequest on a conservation easement to the property held by

Louisville Metro, the Mayor declined the bequest for the reasons stated in his letter dated July 30, 2007 a copy of which is attached as Exhibit B to this resolution; and

WHEREAS, the Probate Division of the Jefferson Family Court accepted the Mayor's letter as a renunciation of the bequest, which under law returned the property to be distributed to the beneficiaries of the residuary estate under the will; and

WHEREAS, the administrators of the estate, under the direction of the Court have contracted with a buyer for the property, and a closing was begun on June 17, and for reasons related to the buyer's financing of the property, must be completed no later than July 7, 2009; and

WHEREAS, a condition of the buyer's financing, and of closing the sale is that the buyer provide title insurance; and

WHEREAS, in addition to Exhibit B filed with the Court, the buyer's title insurance company has required the Mayor's declination and renunciation of the bequest to Louisville Metro under the will to be memorialized by way of a Release and Disclaimer of Interest in a form attached as Exhibit C to this resolution; and

WHEREAS, the Mayor's execution of an instrument such as Exhibit C may require the approval of the Metro Council; and

WHEREAS, the Mayor has requested such approval from the Council; and

WHEREAS, since Metro Government may also be a beneficiary under the will of an alternate bequest from the proceeds of a sale of the property, it is in the public interest for the Council to facilitate the closing of the pending sale:

NOW THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/ JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: The Mayor is authorized to execute, and deliver to the appropriate parties, the instrument attached to this resolution as Exhibit C.

SECTION II. Because, the completion of the sale of this property which is in the interest of Louisville Metro cannot be accomplished without the Mayor's immediate execution and delivery of the instrument attached as Exhibit C to this resolution, and pursuant to Rule 7.12 of the Council Rules, the enactment of this resolution is deemed an emergency.

SECTION III: This Resolution shall be effective upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

David W. Tandy
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____